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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PUCEL ENTERPRISES, INC.
Petitioner,

CONSOLIDATED

v.

GRIZZLY INDUSTRIAL, INC.
Respondent/Registrant

Opposition No. 123,506

Cancellation No. 31,984

Cancellation No. 32,024

Cancellation No. 32,025

Mark: GRIZZLY.COM

Mark: GRIZZLY

Mark: GRIZZLY

Mark: GRIZZLY INDUSTRIAL

GRIZZLY'S MOTION TO EXTEND DISCOVERY AND TESTIMONY PERIODS

Registrant, Grizzly Industrial, Inc., hereby requests that the discovery and testimony periods be extended six (6) months from January 5, 2003, and that the discovery and testimony periods be reset as follows:



THE PERIOD FOR DISCOVERY TO CLOSE: July 5, 2003

12-16-2002

Testimony period for party in position of plaintiff to close (opening thirty days prior thereto) October 5, 2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Testimony period for party in position of defendant to close (opening thirty days prior thereto) December 4, 2003

Rebuttal testimony period to close (opening fifteen days prior thereto) January 19, 2004

The grounds for this motion are as follows:

(1) The parties are engaged in a total of five (5) opposition/cancellation proceedings, and are proceeding with discovery concurrently in the above consolidated proceedings and in Opposition No. 123,136. Planning and engaging in discovery for five proceedings involves more time than the usual case.

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(2) The proceedings just resumed on October 15, 2002, after having been suspended, including the suspension of new discovery, for approximately four months while the Board decided a motion to compel. Despite the Board's order that responses to existing discovery was not stayed, petitioner did nothing during the suspension with respect to responding to outstanding discovery.

(3) Unlike petitioner, during the stay period, respondent gathered additional information and documents, and in November 2002 registrant supplemented its responses to petitioner's interrogatories, produced additional documents, produced confidential documents and information pursuant to the protective order, and the parties traveled to Seattle for the 30(b)(6) deposition of registrant.

(4) On the other hand, petitioner has been delaying its responses to registrant's discovery requests, including the following:

- Since May 2002, petitioner has repeatedly promised to supplement its discovery responses, but at the filing of this motion has not done so.
- Registrant served additional interrogatories, document requests, and requests for admission on petitioner on August 5, 2002 (prior to receiving the Board's stay order), and to date, petitioner has not responded nor has petitioner even indicated when it will respond.
- Since May, 2002 petitioner has promised to produce confidential documents and information. Despite the entry of a protective order, petitioner has not done so, and has not even indicated when it will do so.
- Since May 2002, registrant has made repeated requests for petitioner to provide dates when registrant can inspect documents at petitioner's office in Ohio. On the

afternoon of December 6, 2002, almost two months after proceedings resumed and less than a month before discovery is set to close, petitioner offered December 16 and 17, 2002 as dates on which Grizzly's counsel can inspect documents at Pucel's Cleveland, Ohio facility. This allows registrant just five business days to plan. When registrant requested alternate dates, petitioner's response was, in essence, that you had better take these dates because discovery was about to close. Moreover, while registrant copied and delivered thousands of documents to petitioner, petitioner advised registrant that registrant would have to bring its own photocopy machine to make copies at petitioner's facilities. See attached copy of petitioner's attorney's letter of December 9, 2002 (Exhibit A).

- Registrant expects to take at least three discovery depositions, namely two of petitioner's principals, and an alleged confusion witness identified by petitioner. However, registrant cannot notice and schedule these depositions until petitioner provides registrant with complete responses to registrant's interrogatories, and until registrant inspects and copies petitioner's documents in Ohio. If the documents are inspected and copied in mid-December, there will not be time, for many obvious reasons, to schedule and complete at least three depositions before the close of discovery on January 5, 2003.
- On December 6, 2002, registrant served again on petitioner the interrogatories, document requests, and requests for admission that it originally served on August 5, 2002, to which petitioner has not responded. With respect to this discovery, petition is either in default or the responses are not due until after the present close of

discovery. Registrant expects that petitioner's responses will result in further discovery requests, and the identification of additional witnesses to be deposed.

Petitioner's tactics of taking but not giving should not be condoned. Petitioner's motives are transparent. i.e., take advantage of registrant's good faith discovery responses, and then attempt to thwart registrant's efforts to obtain discovery by attempting to let time run out before adequately responding to registrant's discovery requests, and before registrant can complete discovery.

For the foregoing reasons, petitioner's motion should be granted.

Date: December 10, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid in an envelope addressed to: Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202 on December 10 2002

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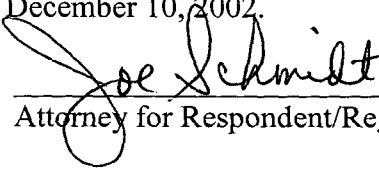
Attorneys for Respondent/Registrant Grizzly Industrial, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION TO EXTEND
DISCOVERY AND TESTIMONY PERIODS was served on Petitioner/Opposer at the following
address:

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via first class mail, postage prepaid, December 10, 2002.



Attorney for Respondent/Registrant

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